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		Application Number	10/730,717
		Filing Date	12/08/2003
		First Named Inventor	James F. Zucherman
		Art Unit	3738
		Examiner Name	
Total Number of Pages in This Submission	11	Attorney Docket Number	KLYCD-05000US0

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
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<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
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<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Michael L. Robbins Fliesler Meyer LLP	Customer Number: 23910
Signature		Reg. No.: 54,774
Date	6/30/04	

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Typed or printed name	Michael L. Robbins		
Signature		Date	6/30/04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No.: KLYCD-05000US0  
mrobbins/klycd/5000us0/5000us0.trans.pdf



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Zucherman, et al.

Appl. No.: 10/730,717

Confirm. No.: 3955

Filed: December 8, 2003

Title: SYSTEM AND METHOD FOR REPLACING  
DEGENERATED SPINAL DISKS

### PATENT APPLICATION

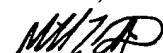
Art Unit: 3738

Examiner: Unknown

Customer No. 23910

### **CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**, on June 30, 2004

  
Michael L. Robbins, Reg. No. 54,774

(Attorney Signature)

Signature Date: June 30, 2004

### **INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

***Enclosed with this statement are the following:***

- Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- The present application is being/was filed after June 30, 2003. In accordance with the pre-official gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at: [pac/dapp/opla/preognnotice/idswouscopies.htm](http://pac/dapp/opla/preognnotice/idswouscopies.htm), copies of cited U.S. patents and publications are not enclosed. However, copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98(a)(2), as still required, except for those items designated by an asterisk (\*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the

September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

— If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— **PTA Statement under 37 C.F.R. §1.704(d).** Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

***This statement should be considered because:***

— **✓ 37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);  
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;  
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

— **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.  
-- AND (*check at least one of the following*) --
  - (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).  
-- OR --
  - (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— **37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the Issue Fee;  
-- AND --

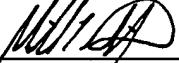
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);  
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

***Fee Authorization.*** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER MEYER LLP

Date: 6/30/04

By: 

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Form PTO-1449 (Substitute)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		Attorney Docket Number <b>KLYCD-05000US0</b>	Serial/Patent Number <b>10/730,717</b>		
<i>Information Disclosure Statement</i> <b>BY APPLICANT</b> <i>(Use several sheets if necessary)</i>		Applicant/Patent Owner <b>Zucherman, et al.</b>					
		Filing/Issue Date <b>December 8, 2003</b>		Group Art Unit <b>3738</b>			
<b>U.S. PATENTS</b>							
Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	1	3,867,728	Feb 25, 1975	Stubstad et al.			
	2	3,875,595	Apr 8, 1975	Froning			
	3	4,309,777	Jan 12, 1982	Patil			
	4	4,349,921	Sep 21, 1982	Kuntz			
	5	4,759,766	Jul 26, 1988	Büttner-Janz et al.			
	6	4,759,769	Jul 26, 1988	Hedman et al.			
	7	4,772,287	Sep 20, 1988	Ray et al.			
	8	4,863,477	Sep 5, 1989	Monson			
	9	4,874,389	Oct 17, 1989	Downey			
	10	4,878,915	Nov 7, 1989	Brantigan			
	11	4,904,260	Feb 27, 1990	Ray et al.			
	12	4,911,718	Mar 27, 1990	Lee et al.			
	13	4,932,969	Jun 12, 1990	Frey et al.			
	14	4,946,378	Aug 7, 1990	Hirayama et al.			
	15	4,997,432	Mar 5, 1991	Keller			

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	16	5,002,576	Mar 26, 1991	Fuhrmann et al.			
	17	5,035,716	Jul 30, 1991	Downey			
	18	5,047,055	Sep 10, 1991	Bao et al.			
	19	5,071,437	Dec 10, 1991	Steffee			
	20	5,108,438	Apr 28, 1992	Stone			
	21	5,122,130	Jun 16, 1992	Keller			
	22	5,123,926	Jun 23, 1992	Pisharodi			
	23	5,171,280	Dec 15, 1992	Baumgartner			
	24	5,171,281	Dec 15, 1992	Parsons et al.			
	25	5,192,326	Mar 9, 1993	Bao et al.			
	26	5,246,458	Sep 21, 1993	Graham			
	27	5,258,031	Nov 2, 1993	Salib et al.			
	28	5,258,043	Nov 2, 1993	Stone			
	29	5,306,307	Apr 26, 1994	Senter			
	30	5,306,308	Apr 26, 1994	Gross et al.			
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	32	5,314,477	May 24, 1994	Marnay			

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	33	5,320,644	Jun 14, 1994	Baumgartner			
	34	5,370,697	Dec 6, 1994	Baumgartner			
	35	5,390,683	Feb 21 1995	Pisharodi			
	36	5,401,269	Mar 28, 1995	Büttner-Janz et al.			
	37	5,425,773	Jun 20, 1995	Boyd et al.			
	38	5,458,642	Oct 17, 1995	Beer et al.			
	39	5,458,643	Oct 17, 1995	Oka et al.			
	40	5,507,816	Apr 16, 1996	Bullivant			
	41	5,514,180	May 7, 1996	Heggeness et al.			
	42	5,534,028	Jul 9, 1996	Bao et al.			
	43	5,534,029	Jul 9, 1996	Shima			
	44	5,534,030	Jul 9, 1996	Navarro et al.			
	45	5,545,229	Aug 13, 1996	Parsons et al.			
	46	5,549,679	Aug 27, 1996	Kuslich			
	47	5,556,431	Sep 17, 1996	Büttner-Janz			
	48	5,562,736	Oct 8, 1996	Ray et al.			
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	50	5,645,596	Jul 8, 1997	Kim et al.			
	51	5,645,597	Jul 8, 1997	Krapiva			
	52	5,674,294	Oct 7, 1997	Bainville et al.			
	53	5,674,295	Oct 7, 1997	Ray et al.			
	54	5,674,296	Oct 7, 1997	Bryan et al.			
	55	5,676,701	Oct 14, 1997	Yuan et al.			
	56	5,676,702	Oct 14, 1997	Ratron			
	57	5,683,465	Nov 4, 1997	Shinn et al.			
	58	5,702,450	Dec 30, 1997	Bisserie			
	59	5,702,454	Dec 30, 1997	Baumgartner			
	60	5,716,416	Feb 10, 1998	Lin			
	61	5,755,796	May 26, 1998	Ibo et al.			
	62	5,755,798	May 26, 1998	Papavero et al.			
	63	5,782,832	Jul 21, 1998	Larsen et al.			
	64	5,824,093	Oct 20, 1998	Ray et al.			
	65	5,824,094	Oct 20, 1998	Serhan et al.			
	66	5,827,328	Oct 27, 1998	Buttermann			

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	67	5,865,845	Feb 2, 1999	Thalgott			
	68	5,865,846	Feb 2, 1999	Bryan et al.			
	69	5,888,226	Mar 30, 1999	Rogozinski			
	70	5,893,889	Apr 13, 1999	Harrington			
	71	5,895,428	Apr 20, 1990	Berry			
	72	5,899,941	May 4, 1999	Nishijima et al.			
	73	5,919,235	Jul 6, 1999	Husson et al.			
	74	5,928,284	Jul 27, 1999	Mehdizadeh			
	75	5,964,807	Oct 12, 1999	Gan et al.			
	76	5,976,186	Nov 2, 1999	Bao et al.			
	77	6,001,130	Dec 14, 1999	Bryan et al.			
	78	6,022,376	Feb 8, 2000	Assell et al.			
	79	6,093,205	Jul 25, 2000	McLeod et al.			
	80	6,039,763	Mar 21, 2000	Shelokov			
	81	6,110,210	Aug 29, 2000	Norton et al.			
	82	6,113,637	Sep 5, 2000	Gill et al.			
	83	6,132,465	Oct 17, 2000	Ray et al.			

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	84	6,136,031	Oct 24, 2000	Middleton			
	85	6,139,579	Oct 31, 2000	Steffee et al.			
	86	6,146,421	Nov 14, 2000	Gordon et al.			
	87	6,146,422	Nov 14, 2000	Lawson			
	88	6,156,067	Dec 5, 2000	Bryan et al.			
	89	6,162,252	Dec 19, 2000	Kuras et al.			
	90	6,165,218	Dec 26, 2000	Husson et al.			

## U.S. PATENT PUBLICATIONS

Examiner Initial		Patent Application Publication Number	Publication Date	Applicant

## PENDING U.S. PATENT APPLICATIONS

Examiner Initial		Application Number	Filing Date	First Named Inventor	Petition to Expunge? Yes   No

## FOREIGN PATENT DOCUMENTS

Examiner Initial		Document Number	Publication Date	Country	Class	Subclass	Trans-lation Yes   No
	91	W0 01/01893 A1	Jan 11, 2001	PCT			X

\* The FOR doc. is not found.

OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages)		
Examiner	Date Considered	
<p>*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p> <p>*1 = Copy not submitted because it was submitted in prior application SN <u>/</u> _____, filed _____, 20____, relied on under 35 USC §120. *2 = Copy not submitted because it was submitted in prior application SN <u>/</u> _____, filed _____, 20____, relied on under 35 USC §120.</p>		